

**GOA STATE INFORMATION COMMISSION**  
'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

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**Complaint No. 25/2022/SCIC**

Shri. Shashikant Anant Sinai Karapurkar,  
R/o. H. No. 123/1, Sonarbhat,  
Swami Samarth Housing Co-op Society,  
Behind Canara Bank, Betim, Branch,  
Betim, Bardez-Goa 403101.

.....Complainant

V/S

1. The Public Information Officer,  
Bank of Baroda, Verem Branch,  
P.O. Reis Magos, Verem-Goa  
403114.

2. The Public Information officer,  
Regional Manager,  
Regional Office, Bank of Baroda,  
Metropolis-II, 4<sup>th</sup> Floor,  
Behind Caculo-Mall, St.Inez,  
Panaji-Goa 403001.

.....Opponents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 01/08/2022**

**Decided on: 21/07/2023**

**ORDER**

1. The Complainant, Shri. Shashikant Anant Sinai Karapurkar, r/o. H.No. 123/1, Sonarbhat, Swami Samarth Housing Co-op Society, Behind Canara Bank, Betim Branch, Betim, Bardez-Goa vide his application dated 21/05/2020 filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information from the Public Information Officer (PIO), Bank of Baroda, Verem Branch, Verem, Bardez-Goa.
2. The said application was responded by the PIO on 06/10/2020 informing that information sought for has been denied being exempted from disclosure under Section 8(1)(e) and 8(1)(j) of the Act.

3. Not satisfied with the reply of the PIO, the Complainant landed before the Commission by this complaint under Section 18 of the Act.
4. Notices were issued to the parties, pursuant to which the Complainant appeared in person on 27/09/2022, the PIO Shri. Rajesh Kumar Jha appeared and filed his reply on 02/11/2022. The Opponent No. 2 duly served opted not to appear in the matter.
5. Considering that the Complainant is a senior citizen of 82 years old and taking in to account the nature and gravity of information sought i.e information with regards to the detail of Personal Accident Policy of his deceased Son, Late. Harshad alias Anant Shashikant Sinai Karapurkar, the Commission at the very outset without going to the merits of the case, directed the representative of the Bank to furnish the available information to the Complainant.
6. Accordingly on 27/04/2023, the representative of the PIO, Ms. K. Binisha appeared and filed pointwise reply and bunch of documents to the Complainant. However, the Complainant submitted that he is not satisfied with the information provided by the PIO, therefore the matter proceeds for adjudication.
7. Perused the pleadings, reply, rejoinder, scrutinised the documents and considered the submissions of the rival parties.
8. Having gone through the entire material on record, it stipulates that the Complainant without exhausting the remedy of first appeal under Section 19(1) of the Act, landed before the Commission under Section 18 of the Act and the same is against the mandatory procedure laid down under the Act.

9. The Hon'ble Supreme Court while dealing with similar facts, in the case **Chief Information Commissioner & Anrs. v/s State of Manipur & Another (2012 (1) ALL MR 948 (SC))** has observed at para No. 35 as under:-

*"35..... The procedure contemplated under Section 18 and Section 19 of the said Act is substantially different. The nature of the power under Section 18 is supervisory in character whereas the procedure under Section 19 is an appellate procedure and a person who is aggrieved by refusal in receiving the information which he has sought for can only seek redress in the manner provided in the statute, namely, by following the procedure under Section 19. This Court is, therefore, of the opinion that Section 7 read with Section 19 provides a complete statutory mechanism to a person who is aggrieved by refusal to receive information. Such person has to get the information by following the aforesaid statutory provisions. The contention of the appellant that information can be accessed through Section 18 is contrary to the express provision of Section 19 of the Act. It is well known when a procedure is laid down statutorily and there is no challenge to the said statutory procedure the Court should not, in the name of interpretation, lay down a procedure which is contrary to the express statutory provision. "*

10. The Hon'ble High Court of Karnataka in the case **M/s Bangalore Electricity Supply Company Ltd. & Anr. v/s the State Information Commissioner & Anrs. (W.P. No. 19441/2012)** has held as under:-

*"21. The procedure adopted by the first respondent is clearly not permissible in law. If the second respondent is aggrieved by the orders passed by the Public Information Officer under section 7 of the Act, he has to file an appeal under section 19(1) of the Act before the appellate authority and in case he is aggrieved by the action or inaction of the appellate authority, he has to file a second appeal under section 19(3). Filing of an application under section 18(1) of the Act complaining the alleged inaction of the Public Information Officer is clearly not permissible in law."*

11. The Hon'ble High Court of Bombay at Goa in the case **Goa Cricket Association & Anrs. v/s State of Goa & Ors. (Writ Petition No. 739/2010)** as observed as under:-

*"7....Section 18 of the Act confers jurisdiction on the State Information Commission to entertain the complaint in cases which do not include the case of refusal by the public authority to disclose the information. The remedy available to the complainant, in such a case, therefore, is by way of First Appeal before the First Appellate Authority."*

12. As a larger intricate legal issue of maintainability of such complaints without first appeal, was involved in several matters, this commission felt it necessary to constitute full bench of the commission to hear such issue. Accordingly Chief Information Commissioner constituted full bench of the Commission comprising of Chief Information Commissioner and both State Information Commissioners. All the complaints were heard in a common hearing on 20/04/2016. By order dated 27/05/2016 passed by the full bench of this Commission, it is held that the complaints u/s 18

of the RTI Act cannot be entertained unless the Complainant exhausts his remedy of first appeal u/s 19(1) of the Act seeking enforcement of his fundamental claim of seeking information. Hence above complaint proceeding is not maintainable.

13. In the aforesaid observations and circumstances, the complaint is dismissed as not maintainable.

- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner